



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2021-0850; FRL-9324-01-OGC]

### Proposed Consent Decree, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Texas Environmental Justice Advocacy Services, et al. v. Regan*, No. 1:20-cv-03733-RJL. On December 18, 2020, Plaintiffs Texas Environmental Justice Advocacy Services, California Communities Against Toxics, Environmental Integrity Project, Louisiana Environmental Action Network, Ohio Valley Environmental Council, RISE St. James, and Sierra Club (collectively “Plaintiffs”) filed a complaint in the United States District Court for the District of Columbia. Plaintiffs alleged that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to “review and, if appropriate, revise” the New Source Performance Standards (“NSPS”) or to promulgate a determination that revision “is not appropriate in light of readily available information on the efficacy of such standard[s]” for four categories of synthetic organic chemical manufacturing industry (“SOCMI”) stationary sources, and to “review, and revise as necessary” the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for SOCMI source categories regulated under the Hazardous Organic NESHAP Rule (“HON”) at least every 8 years. The proposed consent decree would establish deadlines for EPA to take actions.

**DATES:** Written comments on the proposed consent decree must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2021-0850, online at <https://www.regulations.gov> (EPA’s preferred method). Follow the online

instructions for submitting comments.

*Instructions:* All submissions received must include the Docket ID number for this action.

Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Additional Information about Commenting on the Proposed Consent Decree” heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via [https://www.regulations.gov](https://www.regulations.gov/), as there may be a delay in processing mail and faxes. Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Michael Thrift, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone (202) 564-8852; email address [thrift.mike@epa.gov](mailto:thrift.mike@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Obtaining a Copy of the Proposed Consent Decree**

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2021-0850) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed

consent decree, and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

## **II. Additional Information about the Proposed Consent Decree**

The proposed consent decree would establish deadlines for EPA to take proposed and final actions pursuant to CAA sections 111(b)(1) and 112(d)(6) for the NSPS for SO2MI under 40 CFR part 60, subparts III, NNN, RRR, and VVa and for the SO2MI source categories regulated under the HON Rule, 40 CFR part 63, subparts F, G, H, and I. The consent decree would require by December 16, 2022, that EPA review the NSPS under section 111(b)(1)(B) and sign either: (A) a proposed rule containing revisions to the NSPS; or (B) a proposed determination not to revise the NSPS, and then that EPA take final action by March 29, 2024. In addition, it would require by December 16, 2022, that EPA sign for publication a proposed rule containing all “necessary” revisions (taking into account developments in practices, processes, and control technologies) to subparts F, G, H, and I under section 112(d)(6) of the Act, 42 U.S.C. 112(d)(6), and then that EPA take final action by March 29, 2024.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

## **III. Additional Information about Commenting on the Proposed Consent Decree**

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2021-0850, via

<https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket

system is an “anonymous access” system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

**Gautam Srinivasan,**  
*Associate General Counsel.*

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